

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 63 TFEU and of Article 40 of the EEA Agreement — National legal provisions on the taxation of dividends and interest paid to pension funds and pension insurance schemes, granting certain fiscal advantages only in respect of dividends and interest paid to resident institutions

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the European Commission to bear its own costs and to pay those incurred by the Federal Republic of Germany;
3. Orders the French Republic, the Kingdom of the Netherlands, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland to bear their own costs.

⁽¹⁾ OJ C 80, 12.3.2011.

Judgment of the Court (Third Chamber) of 22 November 2012 — E.ON Energie AG v European Commission

(Case C-89/11 P P) ⁽¹⁾

(Appeals — Action for annulment of a Commission decision relating to a fine for breach of seal — Burden of proof — Distortion of the evidence — Obligation to state reasons — Amount of the fine — Unlimited jurisdiction — Principle of proportionality)

(2013/C 26/06)

Language of the case: German

Parties

Appellant: E.ON Energie AG (represented by: A. Röhling, F. Dietrich and R. Pfromm, Rechtsanwälte)

Other party to the proceedings: European Commission (represented by: A. Bouquet, V. Bottka and R. Sauer, Agents)

Re:

Appeal against the judgment of the General Court (Eighth Chamber) of 15 December 2010 — *E.ON Energie v Commission* (T-141/08) in which the General Court dismissed the action for annulment of Commission Decision C(2008) 377 final of 30 January 2008 relating to a fine pursuant to Article 23(1)(e) of Council Regulation (EC) No 1/2003 for breach of seal — Breach of general principles of law, such as the presumption of innocence, the principle of ‘in dubio pro reo’ and of proportionality, and the rules relating the burden and taking of evidence — Breach of the obligation to state reasons

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders E.ON Energie AG to pay the costs.

⁽¹⁾ OJ C 152, 21.5.2011.

Judgment of the Court (First Chamber) of 22 November 2012 (reference for a preliminary ruling from the Sąd Rejonowy Poznań-Stare Miasto w Poznaniu — Poland) — Bank Handlowy w Warszawie SA, PPHU ‘ADAX’/Ryszard Adamiak v Christianapol sp. z o.o.

(Case C-116/11) ⁽¹⁾

(Judicial cooperation in civil matters — Regulation (EC) No 1346/2000 — Insolvency proceedings — Concept of ‘closure of insolvency proceedings’ — Possibility for a court before which secondary insolvency proceedings have been brought to examine the debtor’s insolvency — Possibility of opening winding-up proceedings as secondary insolvency proceedings where the main proceedings are *sauvegarde* proceedings)

(2013/C 26/07)

Language of the case: Polish

Referring court

Sąd Rejonowy Poznań-Stare Miasto w Poznaniu

Parties to the main proceedings

Applicants: Bank Handlowy w Warszawie SA, PPHU ‘ADAX’/Ryszard Adamiak

Defendant: Christianapol sp. z o.o.

Re:

Reference for a preliminary ruling — Sąd Rejonowy Poznań-Stare Miasto w Poznaniu — Interpretation of Articles 4(1) and (2)(j) and 27 of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ 2000 L 160, p. 1) — Secondary insolvency proceedings — Right of the court having jurisdiction to open such proceedings in order to examine the debtor’s insolvency

Operative part of the judgment

1. Article 4(2)(j) of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings, as amended by Council Regulation (EC) No 788/2008 of 24 July 2008, must be interpreted as meaning that it is for the national law of the Member State in which insolvency proceedings have been opened to determine at which moment the closure of those proceedings occurs.